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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,019	09/22/2003	Tamio Ikehashi	001701.00241	5703
22907	7590 07/30/2004		EXAMINER	
BANNER & WITCOFF			NGUYEN, VIET Q	
1001 G STREET N W SUITE 1100		ART UNIT	PAPER NUMBER	
WASHINGTON, DC 20001			2818	
		DATE MAILED: 07/30/2004		

Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provision of 37 CFR 1.136(a). In no event, however, may a reply be timely filled Extension of time may be available under the provision of 37 CFR 1.136(a). In no event, however, may a reply be timely filled If the period for reply specified above is lakes than thin's (20) days, a reply while the statutory priod will deploy and will exploy for (50) (\$\text{MST}\$ (20) MONTHS from the mailing date of this communication or play will, by a faulter, cause the application to become ABANCONED (35 U.S. 5 133). Fallulate to reply whithin the set or extended period for reply will, by a faulter, cause the application to become ABANCONED (35 U.S. 5 133). Responsive to communication(s) filled on Application filled on 9/22/2003. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1.15 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 8) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. Application Papers 9) The action is objected to be the Examiner. Application Papers 9) The action is objected to be the proving the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some *c) None of		Application No.	Applicant(s)				
Viet O Nguyen 2818	Office Action Summer	10/665,019	IKEHASHI ET AL.				
The MALING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ② MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extension of the map be semilated under the providence of 3 CPR 1.35(a). In no event, however, may a reply be timely time Extension of the map be a semilated under the providence of 3 CPR 1.35(a). In no event, however, may a reply be timely time If the period for reply appendix out one lose is then thing (30) days, and possible of the period for reply appendix one is the semilated period via legal and via origin St. (MOMTHS from the semilar date). If the period for reply appendix one, the manifest and the providence of the period for reply appendix one is the semilar period via legal and via origin St. (MOMTHS from the semilar date). If the period for reply appendix one is the semilar period via legal and via origin St. (MOMTHS from the semilar date). If the period for reply appendix of the semilar date of the semilar date of the seminary and via origin St. (MOMTHS from the semilar date). If the period for reply appendix of the semilar date of the semilar date of the application. Application is FINAL. 2b) ☑ This action is one-final Application of Laims 4) ☑ Claim(s) 1-15 is/are pending in the application. 4) ② Claim(s) 1-15 is/are allowed. 5) ☑ Claim(s) 1-15 is/are allowed. 6) ☑ Claim(s) 1-15 is/are allowed. 7) ☑ Claim(s) 1-15 is/are allowed. 8) ☑ Claim(s) 1-15 is/are objected to by the Examiner. 9) ☐ The drawing(s) filed on 1-15 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner. Application Papers 9) ☐ The specification is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 11) ☑ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). 2) ☑ All b ☐ Some 1 is made of a claim for foreign priority documents have been received in this National Stage application from	Oπice Action Summary	Examiner	Art Unit				
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Exercision of time may be available under the provisions of 37 CFR 1.35(d). In no event, however, may a right be timely find - Exercision of time may be available under the provisions of 37 CFR 1.35(d). In no event, however, may a right be timely find - If the period for right is apecified above, the maximum distallors preiet will apply and will expire 32% (5) MONTH-8 from the mailing date of this communication. Provision of the provision of the provision of the mailing date of the scenario of the sc							
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1)	A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any						
2a) This action is FINAL. 2b) This action is non-final. 3 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4 Claim(s)	Status						
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DETAILED ACTION

Claims 1-15 are present for examination.

Double Patenting

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain <u>a</u> patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer <u>cannot</u> overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims **1-15** are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims **1-15**, respectively, of prior U.S. Patent No. **6,674,668 B2** (Ikehashi et al). This is a double patenting rejection.

Both sets of claims are identical.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Q Nguyen whose telephone number is (571) 272-1788. The examiner can normally be reached on 7am-6pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nelms can be reached on (703) 308-4910. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Viet Q Nguyen Primary Examiner Art Unit 2818

V. Lucion

V/V V. Nguyen 7/25/2004